

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BAHRI BEGOLLI,

Plaintiff,

v.

THE HOME DEPOT,

Defendant.

ORDER

11-cv-380-bbc

Plaintiff Bahri Begolli is proceeding pro se on a claim that defendant The Home Depot violated his rights under Title VII of the Civil Rights Act by refusing to hire him because of his national origin. An evidentiary hearing is scheduled for March 9, 2012, at which the court will determine whether plaintiff's administrative complaint to the Equal Employment Opportunity Commission (EEOC) was timely.

On February 15, 2012, I denied plaintiff's motion for clarification of timeliness issues, in which he argued that the timeliness of his administrative complaints is not an issue in this case. Dkt. #37. I explained to plaintiff that because he is proceeding under Title VII, his claim must satisfy the timeliness requirements in 42 U.S.C. § 2000e-5(e)(1).

Plaintiff has filed another motion for clarification, asking the court for an "official interpretation" of Wisconsin's Fair Employment Act and state law deadlines. I am denying

the motion. Plaintiff is not proceeding on any state law claims in this case. He is proceeding only on a claim under Title VII of the Civil Rights Act and thus, it is the requirements of federal law that matter for plaintiff's claim. Under federal law, plaintiff was required to file a charge of discrimination with the EEOC "within three hundred days after the alleged unlawful employment practice occurred." 42 U.S.C. § 2000e-5(e)(1).

Plaintiff contends that even if he is subject to the requirements of Title VII, he was not required to file his complaint with the EEOC within 300 days of the date defendant refused to hire him. Rather, plaintiff contends that he was not required to file his EEOC complaint until 300 days after he "felt the discrimination in his skin." Plt.'s Br., dkt. #38. at 2. Plaintiff's interpretation of the timeliness requirement is incorrect. Title VII requires plaintiffs to file an EEOC complaint within the specified number of days after an "unlawful employment practice." The Supreme Court has explained that in most cases, an "unlawful employment practice" is a "discrete act" such as when an employer fires an employee or refuses to hire an applicant for an improper reason. National Railroad Passenger Corp. v. Morgan, 536 U.S. 101, 110–11 (2002). See also 42 U.S.C. § 2000e-2(a) (defining "unlawful employment practice" as including employer's "fail[ure] or refus[al] to hire or to discharge" any individual because of such individual's race, color, religion, sex or national origin). The 300-day limitations period commences "at the time the employment decision was made and communicated to the employee." Stepney v. Naperville School Dist. 203, 392 F.3d 236, 240 (7th Cir. 2004) (quotation and citation omitted). "The period begins

to run when the employee knows he has been injured, not when he determines that the injury was unlawful.” Id. See also Sharp v. United Airlines, Inc., 236 F.3d 368, 372 (7th Cir. 2001).

In this case, plaintiff was granted leave to proceed on a claim that defendant violated his rights under Title VII by refusing to hire him on the basis of his national origin. Defendant’s refusal to hire plaintiff was the “alleged unlawful employment action.” Thus, the relevant date for the statute of limitations purposes is the date when plaintiff was advised, and understood, that he was not going to be offered a position with defendant. This is the issue that will be resolved at the March 9, 2012 hearing.

ORDER

IT IS ORDERED that the plaintiff Bahri Begolli’s motion for clarification, dkt. #38, is DENIED.

Entered this 5th day of March, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge